

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Ronald C. Albright, Richard E.) C. A. No. 2:00-3215-RBH-RSC  
Blackburn, Tom Clark, Kather )  
Gray, Herbert Hightower, )  
Willie Johnson, Jerry N. )  
Pruitt, James R. Pryor, Allen )  
K. Richardson, Basil Akbar, )  
Russell Cain, Lucius Drafts, )  
Harry J. Sanders, Patrick )  
Underwood, Tommy Warner, )  
Andrew Weber, George E. Brown, )  
Gary Childers, Thomas Wyatt, )  
Cecil Bowser, William S. )  
Cohen, Sean Gordon, Phinzy )  
William Heyward, Jerry )  
Johnson, Toryast Johnson, )  
Gary Moffatt, Antonio Sanders, )  
Dallas Saucer, Douglas G. )  
Smith, James A. Edwards, )  
Kelvin G. Cooper, Willie )  
Mayers, Douglas C. O'Neal, )  
Hervey Beckham, and Hank )  
Williams, )  
Plaintiffs, )  
-versus- ) **REPORT AND RECOMMENDATION**  
State of Carolina, et al., )  
Defendants. )

The pro se plaintiffs brought this DNA action pursuant to 42 U.S.C. § 1983. On July 2, 2008, the defendants filed a motion for summary judgment. By order of this court filed July 3, 2008, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the plaintiffs were advised of dismissal and summary judgment procedures and the possible consequences if they failed to respond adequately.

Since the plaintiffs are proceeding pro se, the court filed a second order on August 19, 2007, giving non-responding plaintiffs an additional ten (10) days in which to file a response to the defendants' motion for summary judgment. These plaintiffs were specifically advised that if they failed to respond, this action may be dismissed as to them with prejudice for failure to prosecute, Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978), 41(b) Federal Rules of Civil Procedure. To date, the following plaintiffs have not responded to the defendants' motion for summary judgment:

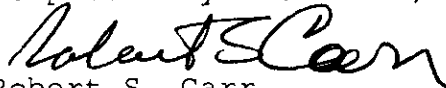
Ronald C. Albright  
Kather Gray  
Herbert Hightower  
Willie Johnson  
Jerry N. Pruitt  
James R. Pryor  
Allen K. Richardson  
Russell Cain  
Harry J. Sanders  
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Gary Moffatt  
Antonio Sanders  
Dallas Saucer  
Douglas G. Smith  
James A. Edwards  
Kelvin G. Cooper

Willie Mayers  
Douglas C. O'Neal  
Hervey Beckham

Accordingly, it appears that the aforementioned plaintiffs no longer wish to pursue this action. It is recommended that this action be dismissed with prejudice for lack of prosecution as to the following plaintiffs:

Ronald C. Albright  
Kather Gray  
Herbert Hightower  
Willie Johnson  
Jerry N. Pruitt  
James R. Pryor  
Allen K. Richardson  
Russell Cain  
Harry J. Sanders  
Patrick Underwood  
Tommy Warner  
Andrew Weber  
George E. Brown  
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Dallas Saucer  
Douglas G. Smith  
James A. Edwards  
Kelvin G. Cooper  
Willie Mayers  
Douglas C. O'Neal  
Hervey Beckham

Respectfully Submitted,



Robert S. Carr  
United States Magistrate Judge

Charleston, South Carolina  
November 20, 2008

**Notice of Right to File Objections to Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court judge need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk  
United States District Court  
P.O. Box 835  
Charleston, South Carolina 29402

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985).

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